

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

STANLEY ELLIS,

Plaintiff,

v.

GOVERNMENT EMPLOYEE
INSURANCE COMPANY, a Maryland
corporation,

Defendant.

Case No. 2:22-cv-01580-WBS-JDP

Hon. William B. Shubb

~~PROPOSED~~ STIPULATED
PROTECTIVE ORDER

[Complaint filed: July 19, 2022
Trial Date: Not set.]

1 1. A. PURPOSES AND LIMITATIONS

2 Discovery in this action is likely to involve production of confidential, proprietary,
3 or private information for which special protection from public disclosure and from use for
4 any purpose other than prosecuting this litigation may be warranted. Accordingly, the
5 parties hereby stipulate to and petition the Court to enter the following Stipulated
6 Protective Order. The parties acknowledge that this Order does not confer blanket
7 protections on all disclosures or responses to discovery and that the protection it affords
8 from public disclosure and use extends only to the limited information or items that are
9 entitled to confidential treatment under the applicable legal principles. The parties further
10 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does
11 not entitle them to file confidential information under seal; Civil Local Rule 141 sets forth
12 the procedures that must be followed and the standards that will be applied when a party
13 seeks permission from the court to file material under seal.

14 B. GOOD CAUSE STATEMENT

15 This action is likely to involve trade secrets and other sensitive non-public personal,
16 commercial, financial, and/or proprietary information (including information subject to
17 protection pursuant to the privacy protections of state and federal law, including Article I,
18 Section I of the California Constitution), for which special protection from public
19 disclosure and from use for any purpose other than prosecution of this action is warranted.
20 Such confidential and proprietary materials and information consist of, among other
21 things, confidential business or financial information, internal insurance claims handling
22 manuals and other information regarding confidential business practices (potentially
23 including information implicating privacy rights of third parties), information otherwise
24 generally unavailable to the public, or which may be privileged or otherwise protected
25 from disclosure under state or federal statutes, court rules, case decisions, or common law.
26 Specifically, public disclosure of GEICO's internal insurance claims handling manuals,
27 claims software including claim IQ, and other internal business practices would damage
28 GEICO's competitive position by allowing its competitors to learn its proprietary claims

1 handling procedures, which GEICO does not publicly disclose. Accordingly, to expedite
2 the flow of information, to facilitate the prompt resolution of disputes over confidentiality
3 of discovery materials, to adequately protect information the parties are entitled to keep
4 confidential, to ensure that the parties are permitted reasonable necessary uses of such
5 material in preparation for and in the conduct of trial, to address their handling at the end
6 of the litigation, and serve the ends of justice, a protective order for such information is
7 justified in this matter. Moreover, Plaintiff will not challenge GEICO's efforts to seal
8 information it designates confidential consisting of its claims manual and claim IQ. It is
9 the intent of the parties that information will not be designated as confidential for tactical
10 reasons and that nothing be so designated without a good faith belief that it has been
11 maintained in a confidential, non-public manner, and there is good cause why it should not
12 be part of the public record of this case.

13
14 2. DEFINITIONS

15 2.1 Action: *Stanley Ellis v. Government Employees Insurance Company, et al.*, Case
16 No. 2:22-cv-01580-WBS-JDP.

17 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
18 information or items under this Order.

19 2.3 "CONFIDENTIAL" Information or Items: information (regardless of how it is
20 generated, stored or maintained) or tangible things that qualify for protection under Federal
21 Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

22 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
23 support staff).

24 2.5 Designating Party: a Party or Non-Party that designates information or items
25 that it produces in disclosures or in responses to discovery as "CONFIDENTIAL."

26 2.6 Disclosure or Discovery Material: all items or information, regardless of the
27 medium or manner in which it is generated, stored, or maintained (including, among other
28

1 things, testimony, transcripts, and tangible things), that are produced or generated in
2 disclosures or responses to discovery in this matter.

3 2.7 Expert: a person with specialized knowledge or experience in a matter pertinent
4 to the litigation who has been retained by a Party or its counsel to serve as an expert
5 witness or as a consultant in this Action.

6 2.8 House Counsel: attorneys who are employees of a party to this Action. House
7 Counsel does not include Outside Counsel of Record or any other outside counsel.

8 2.9 Non-Party: any natural person, partnership, corporation, association, or other
9 legal entity not named as a Party to this action.

10 2.10 Outside Counsel of Record: attorneys who are not employees of a party to this
11 Action but are retained to represent or advise a party to this Action and have appeared in
12 this Action on behalf of that party or are affiliated with a law firm which has appeared on
13 behalf of that party, and includes support staff.

14 2.11 Party: any party to this Action, including all of its officers, directors,
15 employees, consultants, retained experts, and Outside Counsel of Record (and their support
16 staffs).

17 2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
18 Material in this Action.

19 2.13 Professional Vendors: persons or entities that provide litigation support
20 services (e.g., photocopying, videotaping, translating, preparing exhibits or
21 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
22 their employees and subcontractors.

23 2.14 Protected Material: any Disclosure or Discovery Material that is designated as
24 “CONFIDENTIAL.”

25 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a
26 Producing Party.

27
28

1 3. SCOPE

2 The protections conferred by this Stipulation and Order cover not only Protected
3 Material (as defined above), but also (1) any information copied or extracted from
4 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
5 Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel
6 that might reveal Protected Material.

7 Any use of Protected Material at trial shall be governed by the orders of the trial
8 judge. This Order does not govern the use of Protected Material at trial.

9
10 4. DURATION

11 Even after final disposition of this litigation, the confidentiality obligations imposed
12 by this Order shall remain in effect until a Designating Party agrees otherwise in writing or
13 a court order otherwise directs. Final disposition shall be deemed to be the later of (1)
14 dismissal of all claims and defenses in this Action, with or without prejudice; and (2) final
15 judgment herein after the completion and exhaustion of all appeals, rehearings, remands,
16 trials, or reviews of this Action, including the time limits for filing any motions or
17 applications for extension of time pursuant to applicable law.

18
19 5. DESIGNATING PROTECTED MATERIAL

20 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
21 Party or Non-Party that designates information or items for protection under this Order
22 must take care to limit any such designation to specific material that qualifies under the
23 appropriate standards. The Designating Party must designate for protection only those
24 parts of material, documents, items, or oral or written communications that qualify so that
25 other portions of the material, documents, items, or communications for which protection
26 is not warranted are not swept unjustifiably within the ambit of this Order.

27 Mass, indiscriminate, or routinized designations are prohibited. Designations that
28 are shown to be clearly unjustified or that have been made for an improper purpose (e.g.,

1 to unnecessarily encumber the case development process or to impose unnecessary
2 expenses and burdens on other parties) may expose the Designating Party to sanctions.

3 If it comes to a Designating Party's attention that information or items that it
4 designated for protection do not qualify for protection, that Designating Party must
5 promptly notify all other Parties that it is withdrawing the inapplicable designation.

6 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
7 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
8 Disclosure or Discovery Material that qualifies for protection under this Order must be
9 clearly so designated before the material is disclosed or produced.

10 Designation in conformity with this Order requires:

11 (a) for information in documentary form (e.g., paper or electronic
12 documents, but excluding transcripts of depositions or other pretrial or trial proceedings),
13 that the Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter
14 "CONFIDENTIAL legend"), to each page that contains protected material. If only a
15 portion or portions of the material on a page qualifies for protection, the Producing Party
16 also must clearly identify the protected portion(s) (e.g., by making appropriate markings in
17 the margins).

18 A Party or Non-Party that makes original documents available for inspection
19 need not designate them for protection until after the inspecting Party has indicated which
20 documents it would like copied and produced. During the inspection and before the
21 designation, all of the material made available for inspection shall be deemed
22 "CONFIDENTIAL." After the inspecting Party has identified the documents it wants
23 copied and produced, the Producing Party must determine which documents, or portions
24 thereof, qualify for protection under this Order. Then, before producing the specified
25 documents, the Producing Party must affix the "CONFIDENTIAL legend" to each page
26 that contains Protected Material. If only a portion or portions of the material on a page
27 qualifies for protection, the Producing Party also must clearly identify the protected
28 portion(s) (e.g., by making appropriate markings in the margins).

1 (b) for testimony given in depositions that the Designating Party identify the
2 Disclosure or Discovery Material on the record, before the close of the deposition all
3 protected testimony.

4 (c) for information produced in some form other than documentary and for
5 any other tangible items, that the Producing Party affix in a prominent place on the exterior
6 of the container or containers in which the information is stored the legend
7 “CONFIDENTIAL.” If only a portion or portions of the information warrants protection,
8 the Producing Party, to the extent practicable, shall identify the protected portion(s).

9 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
10 designate qualified information or items does not, standing alone, waive the Designating
11 Party’s right to secure protection under this Order for such material. Upon timely
12 correction of a designation, the Receiving Party must make reasonable efforts to assure
13 that the material is treated in accordance with the provisions of this Order.

14
15 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

16 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
17 confidentiality at any time that is consistent with the Court’s Scheduling Order.

18 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
19 process under the local rules.

20 6.3 The burden of persuasion in any such challenge proceeding shall be on the
21 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to
22 harass or impose unnecessary expenses and burdens on other parties) may expose the
23 Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the
24 confidentiality designation, all parties shall continue to afford the material in question the
25 level of protection to which it is entitled under the Producing Party’s designation until the
26 Court rules on the challenge.

1 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed
3 or produced by another Party or by a Non-Party in connection with this Action only for
4 prosecuting, defending, or attempting to settle this Action. Such Protected Material may be
5 disclosed only to the categories of persons and under the conditions described in this
6 Order. When the Action has been terminated, a Receiving Party must comply with the
7 provisions of section 13 below (FINAL DISPOSITION).

8 Protected Material must be stored and maintained by a Receiving Party at a location
9 and in a secure manner that ensures that access is limited to the persons authorized under
10 this Order.

11 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
12 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
13 may disclose any information or item designated “CONFIDENTIAL” only to:

14 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
15 as employees of said Outside Counsel of Record to whom it is reasonably necessary to
16 disclose the information for this Action;

17 (b) the officers, directors, and employees (including House Counsel) of the
18 Receiving Party to whom disclosure is reasonably necessary for this Action;

19 (c) Experts (as defined in this Order) of the Receiving Party to whom
20 disclosure is reasonably necessary for this Action and who have signed the
21 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

22 (d) the court and its personnel;

23 (e) court reporters and their staff;

24 (f) professional jury or trial consultants, mock jurors, and Professional
25 Vendors to whom disclosure is reasonably necessary for this Action and who have signed
26 the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

27 (g) the author or recipient of a document containing the information or a
28 custodian or other person who otherwise possessed or knew the information;

1 (h) during their depositions, witnesses, and attorneys for witnesses, in the
2 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
3 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not
4 be permitted to keep any confidential information unless they sign the “Acknowledgment
5 and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating
6 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to
7 depositions that reveal Protected Material may be separately bound by the court reporter
8 and may not be disclosed to anyone except as permitted under this Stipulated Protective
9 Order; and

10 (i) any mediator or settlement officer, and their supporting personnel,
11 mutually agreed upon by any of the parties engaged in settlement discussions.
12

13 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
14 OTHER LITIGATION

15 If a Party is served with a subpoena or a court order issued in other litigation that
16 compels disclosure of any information or items designated in this Action as
17 “CONFIDENTIAL,” that Party must:

18 (a) promptly notify in writing the Designating Party. Such notification shall
19 include a copy of the subpoena or court order;

20 (b) promptly notify in writing the party who caused the subpoena or order to
21 issue in the other litigation that some or all of the material covered by the subpoena or
22 order is subject to this Protective Order. Such notification shall include a copy of this
23 Stipulated Protective Order; and

24 (c) cooperate with respect to all reasonable procedures sought to be pursued
25 by the Designating Party whose Protected Material may be affected.

26 If the Designating Party timely seeks a protective order, the Party served with the
27 subpoena or court order shall not produce any information designated in this action as
28 “CONFIDENTIAL” before a determination by the court from which the subpoena or order

1 issued, unless the Party has obtained the Designating Party's permission. The Designating
2 Party shall bear the burden and expense of seeking protection in that court of its
3 confidential material and nothing in these provisions should be construed as authorizing or
4 encouraging a Receiving Party in this Action to disobey a lawful directive from another
5 court.

6
7 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN
8 THIS LITIGATION

9 (a) The terms of this Order are applicable to information produced by a Non-
10 Party in this Action and designated as "CONFIDENTIAL." Such information produced by
11 Non-Parties in connection with this litigation is protected by the remedies and relief
12 provided by this Order. Nothing in these provisions should be construed as prohibiting a
13 Non-Party from seeking additional protections.

14 (b) In the event that a Party is required, by a valid discovery request, to
15 produce a Non-Party's confidential information in its possession, and the Party is subject
16 to an agreement with the Non-Party not to produce the Non-Party's confidential
17 information, then the Party shall:

18 (1) promptly notify in writing the Requesting Party and the Non-Party
19 that some or all of the information requested is subject to a confidentiality agreement with
20 a Non-Party;

21 (2) promptly provide the Non-Party with a copy of the Stipulated
22 Protective Order in this Action, the relevant discovery request(s), and a reasonably specific
23 description of the information requested; and

24 (3) make the information requested available for inspection by the
25 Non-Party, if requested.

26 (c) If the Non-Party fails to seek a protective order from this court within 14
27 days of receiving the notice and accompanying information, the Receiving Party may
28 produce the Non-Party's confidential information responsive to the discovery request. If

1 the Non-Party timely seeks a protective order, the Receiving Party shall not produce any
2 information in its possession or control that is subject to the confidentiality agreement with
3 the Non-Party before a determination by the court. Absent a court order to the contrary, the
4 Non-Party shall bear the burden and expense of seeking protection in this court of its
5 Protected Material.

6
7 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

8 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
9 Protected Material to any person or in any circumstance not authorized under this
10 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the
11 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all
12 unauthorized copies of the Protected Material, (c) inform the person or persons to whom
13 unauthorized disclosures were made of all the terms of this Order, and (d) request such
14 person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is
15 attached hereto as Exhibit A.

16
17 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
18 PROTECTED MATERIAL

19 When a Producing Party gives notice to Receiving Parties that certain inadvertently
20 produced material is subject to a claim of privilege or other protection, the obligations of
21 the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B).
22 This provision is not intended to modify whatever procedure may be established in an e-
23 discovery order that provides for production without prior privilege review. Pursuant to
24 Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the
25 effect of disclosure of a communication or information covered by the attorney-client
26 privilege or work product protection, the parties may incorporate their agreement in the
27 stipulated protective order submitted to the court.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. A Party that seeks to file any Protected Material must file under seal and comply with Civil Local Rule 141. Protected Material must be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue.

13. FINAL DISPOSITION

After the final disposition of this Action, as defined in paragraph 4, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work

1 product, even if such materials contain Protected Material. Any such archival copies that
2 contain or constitute Protected Material remain subject to this Protective Order as set forth
3 in Section 4.

4 Any violation of this Order may be punished by any and all appropriate measures
5 including, without limitation, contempt proceedings and/or monetary sanctions.

6
7
8 Dated: August 1, 2023

GAVRILOV & BROOKS

9
10 By

/s/Matthew R. Richard

MATTHEW R. RICHARD

Attorneys for Plaintiff Stanley Ellis

11
12
13
14 Dated: August 1, 2023

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

15
16 By



SUZANNE Y. BADAWI

Attorneys for Defendant Government Employees
Insurance Company

17
18
19
20
21
22 Date: January 29, 2024



JEREMY D. PETERSON

UNITED STATES MAGISTRATE JUDGE

EXHIBIT A

ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of
perjury that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Eastern District of California in the
case of *Stanley Ellis v. Government Employees Insurance Company, et al.*, Case No. 2:22-
cv-01580-WBS-JDP. I agree to comply with and to be bound by all the terms of this
Stipulated Protective Order and I understand and acknowledge that failure to so comply
could expose me to sanctions and punishment in the nature of contempt. I solemnly
promise that I will not disclose in any manner any information or item that is subject to
this Stipulated Protective Order to any persons or entity except in strict compliance with
the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for
the Eastern District of California for the purpose of enforcing the terms of this Stipulated
Protective Order, even if such enforcement proceedings occur after termination of this
action. I hereby appoint _____ [print or type full name] of
_____ [print or type full address and telephone number] as my
California agent for service of process in connection with this action or any proceedings
related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed Name: _____

Signature: _____

PROOF OF SERVICE

Stanley Ellis v. Government Employee Insurance Company
Case No. 2:22-CV-01580-WBS-JDP

STATE OF CALIFORNIA, COUNTY OF FRESNO

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Fresno, State of California. My business address is 7647 North Fresno Street, Fresno, CA 93720.

On January 22, 2024, I served true copies of the following document(s) described as **[PROPOSED] STIPULATED PROTECTIVE ORDER** on the interested parties in this action as follows:

Ognian Anguelov Gavrilov
Hannah Fernandez
Matthew Robert Richard
Gavrilov & Brooks
2315 Capitol Avenue
Sacramento, CA 95816
Telephone: (916) 504-0529
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Email: ognian@gavrilovlaw.com
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Attorneys for Plaintiff Stanley Ellis

BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 22, 2024, at Fresno, California.

/s/ Marisela Taylor
Marisela Taylor